

DEPARTMENT OF PLANNING

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Douglas J. Schuetz
Acting Commissioner

Arlene R. Miller
Deputy Commissioner

March 6, 2019

Ramapo Zoning Board of Appeals
237 Route 59
Suffern, NY 10901

Tax Data: 50.14-3-14

Re: GENERAL MUNICIPAL LAW REVIEW: Section 239 L and M

Map Date: 1/16/2019

Date Review Received: 1/28/2019

Item: **102 ECKERSON LANE/GROUP CARE FACILITY (R-2682)**

Variances for lot area, lot width, front setback, front yard, side setback, total side setback, side yard, street frontage and development coverage to allow a group care facility to operate in an existing single-family dwelling on .1722 acres in an R-15 zoning district.

South side of East Eckerson Road, approximately 150 feet west of Buena Vista Avenue

Reason for Referral:

East Eckerson Road (CR74)

The County of Rockland Department of Planning has reviewed the above item. Acting under the terms of the above GML powers and those vested by the County of Rockland Charter, I, the Commissioner of Planning, hereby:

****Disapprove***

1 As noted on the bulk table and in the Building Department's October 24, 2018 CDRC comments, a group care facility is a special permit use in the R-15 zoning district. Planning Board approval is required. By definition, special permit uses are subject to a higher standard of review.

The subject site is deficient in achieving the bulk standards for its current single-family use; the lot area, lot width and street frontage are nonconforming. Yard and setback variances are required for the existing structure. While similar sized parcels prevail in the surrounding neighborhood south of East Eckerson Road, detached, one-family residences are the predominant land use. The single-family neighborhood to the north of East Eckerson Road is characterized by conforming and oversized parcels. Group care facilities require a minimum lot area of 40,000 SF, or almost three times the 15,000 SF lot area requirement for detached, single-family dwellings. The subject site will require a lot area variance of more than 81 percent. Substantially larger lot width and street frontage standards are also mandated for the proposed special permit use; only 31 percent of the lot width and 50 percent of the street frontage are achieved. This proposal undermines the integrity of the zoning ordinance; it will set a land use precedent that will dramatically alter the community character of the surrounding neighborhood.

Given the degree of non-conformity with the R-15 bulk requirements, we believe the proposed group care facility does not comply with the special permit standards and general conditions outlined in Section 376-120. The

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special permit and variances required for this proposal shall not be granted as the facility cannot be adequately buffered, and will not be in harmony with the surrounding community character which is predominantly comprised of detached, single-family dwellings.

2 Permitting development that does not comply with the applicable bulk standards can set an undesirable land use precedent and result in the overutilization of individual sites. The subject site achieves less than 19 percent of the required minimum lot area for a group care facility. The minimum lot width and street frontage are deficient by 69 and 50 percent respectively. Numerous yard and setback variances are required, and the maximum permitted development is exceeded by 45 percent. The ability of the existing infrastructure to accommodate group care facilities on undersized and nonconforming parcels is a countywide concern and must be evaluated. This evaluation must consider whether local roads will become more congested and the sewer system, stormwater management systems and the public water supply will be overburdened. The Town must consider the cumulative and regional impacts of permitting such development. The variances shall not be granted, as this parcel is woefully deficient in meeting the bulk standards for the proposed use.

The following comments address our additional concerns about this proposal.

3 A review must be completed by the Rockland County Highway Department, and all required permits obtained.

4 A review must be completed by the Rockland County Health Department to ensure compliance with Article XIX (Mosquito Control) of the Rockland County Sanitary Code.

5 A review must be completed by the Rockland County Sewer District #1, and all required permits obtained.

6 The proposed group care facility must comply with all requirements of the New York State Uniform Fire Prevention and Building Code.

7 A review must be completed by the Rockland County Office of Fire and Emergency Services, the Town of Ramapo Fire Inspector, or the Hillcrest Fire Department to ensure that there is sufficient maneuverability on site for fire trucks, in the event an emergency arises.

8 The Building Department's October 24, 2018 CDRC comments do not list street frontage as a required variance. All application materials must be consistent. The public hearing notice must be revised and reissued if it did not contain all required variances.

9 Appropriate screening must be provided along the property lines to shield the view of this more intensive land use from the adjacent residential neighbors. This is especially important since the provided side yard and side setbacks are deficient.

10 The existing driveway is only nine feet wide and not level with the driveway to the west. We believe this driveway width is insufficient for larger, multi-passenger vehicles that might serve the group care facility, as well as emergency vehicles. This undersized, residential parcel, in an established single-family neighborhood, is inappropriate for a more intensive land use, including the proposed group care facility. The special permit and required variances shall not be granted.

11 A dumpster enclosure must be shown on the site plan and easily accessible to sanitation workers. Parked vehicles must not block access.

12 The disposition of the concrete foundation remains in the southwest corner of the site shall be clarified, as this area can serve as a turnaround space for a vehicle parked in space 5.

13 Pursuant to General Municipal Law (GML) Section 239-m and 239-n, if any of the conditions of this GML review are overridden by the board, then the local land use board must file a report with the County Commissioner of Planning of the final action taken. If the final action is contrary to the recommendation of the Commissioner, the local land use board must state the reasons for such action.

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14 In addition, pursuant to Executive Order 01-2017 signed by County Executive Day on May 22, 2017, County departments are prohibited from issuing a County permit, license, or approval until the report is filed with the County Commissioner of Planning. The applicant must provide to any County agency which has jurisdiction of the project: 1) a copy of the Commissioner report approving the proposed action; or 2) a copy of the Commissioner of Planning recommendations to modify or disapprove the proposed action, and a certified copy of the land use board statement overriding the recommendations to modify or disapprove, and the stated reasons for the land use board's override.



Douglas J. Schuetz
Acting Commissioner of Planning

cc: Supervisor Michael B. Specht, Ramapo
Rockland County Department of Highways
Rockland County Department of Health
Rockland County Sewer District #1
New York State Department of State
Rockland County Office of Fire and Emergency Services
Hillcrest Fire District

Anthony R. Celentano P.E.
Rockland County Department of Social Services
M.A.D.E. Transitional Services
Peter Obe

Mona Montal, Chief of Staff
Rockland County Planning Board Members

**NYS General Municipal Law Section 239 requires a vote of a 'majority plus one' of your agency to act contrary to the above findings.*

The review undertaken by the Rockland County Planning Department is pursuant to, and follows the mandates of Article 12-B of the New York General Municipal Law. Under Article 12-B the County of Rockland does not render opinions, nor does it make determinations, whether the item reviewed implicates the Religious Land Use and Institutionalized Persons Act. The Rockland County Planning Department defers to the municipality forwarding the item reviewed to render such opinions and make such determinations if appropriate under the circumstances.

In this respect, municipalities are advised that under the Religious Land Use and Institutionalized Persons Act, the preemptive force of any provision of the Act may be avoided (1) by changing a policy or practice that may result in a substantial burden on religious exercise, (2) by retaining a policy or practice and exempting the substantially burdened religious exercise, (3) by providing exemptions from a policy or practice for applications that substantially burden religious exercise, or (4) by any other means that eliminates the substantial burden.

Proponents of projects are advised to apply for variances, special permits or exceptions, hardship approval or other relief.

Pursuant to New York State General Municipal Law §239-m(6), the referring body shall file a report of final action it has taken with the Rockland County Department of Planning within thirty (30) days after final action. A referring body which acts contrary to a recommendation of modification or disapproval of a proposed action shall set forth the reasons for the contrary action in such report.

